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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

# Federal Communications Commission

WASHINGTON, D. C. 20554

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| In the Matter of | ) | |
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| Implementation of the Cable Television Consumer Protection and Competition Act of 1992 | ) | MM DOCKET NO. 92-259 |
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To: The Commission

## COMMENTS

United Communications Corporation, by its attorneys, hereby submits the following comments in response to the Notice of Proposed Rule Making, FCC 92-499, released November 19, 1992, in the above-captioned proceeding.

United Communications Corporation is the licensee of Television Station KEYC-TV, Mankato, Minnesota, and of Station WWNY-TV, Carthage/Watertown, New York. Both of these stations render important services to their communities. In the case of WWNY-TV, the station has a long history of outstanding involvement in the community affairs of the "North Country." It is the only commercial television station licensed to a north country community, except for WWTI, Channel 50, Watertown, New York (which is in bankruptcy).

Similarly, Station KEYC-TV, Channel 12, Mankato, Minnesota, provides an invaluable local public service to some twenty counties in southern Minnesota and six counties in northern Iowa. In

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much if not most of this area, KEYC-TV is the only full service television station which can be received directly off the air. It provides a level of attention to local matters which the metropolitan stations licensed to Minneapolis and St. Paul, with their focus on heavily populated urban areas, cannot possibly match. It was this type of station which Congress had in mind when it instructed the Commission to "afford particular attention to the value of localism" in market determinations under Section 614(h)(1)(C).

Under circumstances where two markets are evenly matched in terms of numbers of stations, the ADI boundary is a reasonable one for determining which stations will be carried on local cable systems. However, KEYC-TV must contend with a far different situation.

KEYC-TV is the <u>only</u> station licensed to the Mankato market, whereas there are some <u>eleven</u> stations licensed to the Minneapolis-St. Paul market. Thus, in several counties, KEYC-TV ranks as the most-watched television station, yet the aggregate shares of the Minneapolis-St. Paul stations overwhelm the Mankato share and take the county in question out of the Mankato ADI. That is true, for example, in Watonwan County where KEYC-TV's transmitter is located.

It is also true in places like Brown County, Minnesota, which fall within KEYC-TV's Grade A contour, but which do not receive even a Grade B signal from any Minneapolis-St. Paul station. It would be absurd to require carriage of the CBS station in Minneapolis in such counties, at the expense of KEYC-TV, simply on the basis of an ADI designation. Accordingly, the Commission should ensure that its procedures for implementing Section 614(h)(1)(C). The Commission should ensure that its procedures for implementing Section 614(h)(1)(C) favor the stations which indeed provide local news and other programming of local interest. That will be the case, in general, with the station whose transmitter site is closest to the cable community in question.

In many instances, cable systems straddle ADI boundaries. In such situations, the Commission should treat the cable system as lying in the smaller of the two markets for purposes of deciding must-carry disputes. As explained below, the station(s) in the smaller of the two markets will be more closely attuned to local concerns. In addition, such a rule would merely compensate in part for the bias inherent in the Arbitron designation for the larger television markets.

United Communications Corporation agrees with the Commission that it would be preferable for requests for such determinations to be filed as special relief petitions. The present special relief rules call for extensive notice on existing cable systems and affected stations, so that there is no doubt but that sufficient notice would be afforded. United Communications Corporation's concern is that the Commission may have difficulty dealing with the volume of requests, and it therefore urges that the Commission allocate sufficient staff to the processing of special relief petitions, especially during the first year of the effectiveness of the Act.

In order to simplify this process and give the swiftest relief where the need is greatest, United Communications Corporation urges the Commission to give special priority to all those special relief petitions filed by single station market licensees.

The Notice of Proposed Rule Making, at note 22, refers to the status of certain stations as significantly viewed pursuant to Section 76.54 of the Commission's Rules. Unfortunately, certain Minneapolis stations were declared significantly viewed in some counties far beyond their Grade B contours many years ago, possibly in part based on translator viewing. United Communications Corporation suggests that a better standard is to limit consideration of local viewing patterns to those stemming from direct viewing of a given station's main signal rather than a translated signal.

In this regard, the Commission's proposal to use a specific mileage limit in market modifications is appropriate. The value of localism endorsed by the Act is tenuous at best in the case of a television station located more than 75 miles from the cable community. Moreover, the nature of television propagation is such that very few communities will view a station off air more than 75 miles from the station's transmitter. Thus, United Communications Corporation agrees that the concept of a mileage radius is a useful one for sorting out meritorious market modification requests. At a minimum, stations whose transmitters are located more than 75 miles from the cable community should be deleted from the pool of eligible must-carry stations to the extent that there is a station identified with the same network whose transmitter is located within fifty miles of that community.

The policy considerations embodied in the 1992 Cable Act are clearly not served by having multiple CBS signals on the cable systems serving, for example, Watonwan, Brown and Martin Counties, Minnesota. KEYC-TV is the only CBS affiliate which directs substantial attention to the local needs and interests of those counties. To the extent that residents of those counties have a need for news and information relating to the Minneapolis-St. Paul area, it is easy for them to obtain that information via stations affiliated with other networks or independent stations. Those other stations do not drain viewers from KEYC-TV's base in the same way that an affiliate of the same network does. That is also true of counties closer to Minneapolis (such as Nicolett, LeSueur and Waseca Counties), albeit to a lesser extent. Still, even in those counties, there is no compelling need for Minneapolis programming to be conveyed to cable households on every one of the eleven Minneapolis-St. Paul stations. Preference should be given to the unique vantage point offered by an operator such as KEYC-TV from a single station market, with particular interest in the local affairs of those counties.

For the foregoing reasons, United Communications Corporation reiterates its request that special relief petitions be processed promptly with respect to counties as to which it is primary source of local television news and information. The survival of a valuable public resource like KEYC-TV depends upon the Commission's expeditious implementation of the Congressional policy embodied in Section 614(h)(1)(C).

Respectfully submitted,

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